

**STATEMENT OF
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OF THE
DISABLED AMERICAN VETERANS
BEFORE THE
COMMITTEES ON VETERANS' AFFAIRS
UNITED STATES SENATE AND
UNITED STATES HOUSE OF REPRESENTATIVES
WASHINGTON, D.C.
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Messrs. Chairmen and Members of the Veterans' Affairs Committees:

On behalf of the more than 1.5 million members of the Disabled American Veterans (DAV) and its Auxiliary, I am honored to appear before you today to discuss the agenda and major concerns of our nation's wartime disabled veterans and their families.

Senator Akaka and Representative Filner, I congratulate both of you on your recent leadership appointment as Chairman of your respective Veterans' Affairs Committees. Senator Craig and Representative Buyer, I congratulate you on your appointment in your leadership role as Ranking Members of the Veterans' Affairs Committees. I wish all four of you Godspeed in your efforts on behalf of our nation's disabled veterans, their dependents and survivors.

To those of you who are returning to service on the Veterans' Affairs Committees, and to those who are embarking on such service, we in the DAV and its Auxiliary greet you with warm regards at the outset of this, the 110th Congress of the United States.

Messrs. Chairmen, as you know, DAV was troubled by the decision last year to end our opportunity to present testimony before a joint hearing of the House and Senate Veterans' Affairs Committees. These hearings have been a long-standing tradition providing the DAV National Commanders the opportunity to provide the authorizers of veterans' programs with our legislative agenda and concerns in front of their peers. These hearings provide our members with the opportunity to observe firsthand their elected officials respond to issues critical to them and other disabled veterans. Hundreds of DAV members make the pilgrimage to our nation's capital to witness this event. These hearings also provide the members of these Committees with the chance to address the numerous constituents who are present from their states.

Messrs. Chairmen, let me thank you for honoring our request to appear before this joint session of the House and Senate Veterans' Affairs Committees today. Thank you and your Leadership for recognizing the importance of these hearings and for reinstating them. Our request has been heard and honored and we greatly appreciate this fact.

In the words of President Theodore Roosevelt: "A man who is good enough to shed his blood for his country is good enough to be given a square deal afterwards." Today, this statement would also apply to those brave young women who are shedding their blood in defense of this great nation. Unfortunately, however, veterans have historically been treated as second-

class citizens. Some people in government or other positions of influence believe that veterans are merely seeking a government handout when they apply for benefits or services. This couldn't be further from the truth, however.

Messrs. Chairmen, I recently had the distinct honor and pleasure to attend the dedication for the Center for the Intrepid at Brooks Army Medical Center in San Antonio, Texas. Also present was General Peter Pace, Chairman of the Joint Chiefs of Staff, General Pace said: "People say that he lost his leg, he lost his arm or she lost her sight in this war; I object, they gave their arm, they gave their leg and she gave her sight for our freedom." These words speak volumes about what brave men and women do every day in defense of our nation and to protect our cherished freedom. They do these things not for profit, but for love of their country and a desire to preserve it. We, as a nation, owe them all that we can give them to make sure their sacrifice is not ignored or undervalued.

Messrs. Chairmen, today I speak not only as the National Commander of the DAV, but as a severely disabled veteran of the Vietnam War, who is acutely aware of the heavy responsibility to act as a spokesman for disabled veterans at such a time in our nation's history. For the sixth consecutive year, America's brave young men and women find themselves in harm's way in what appears to be a protracted war in Iraq and Afghanistan. Each day, new casualties return to America for medical care and rehabilitation of their injuries. For many, rehabilitation of their physical wounds will require years of sustained medical and rehabilitative care services.

Not since the Vietnam War has our nation had to deal with such a significant number of wartime casualties. As of February 1, 2007, there were 553 amputees from Operations Iraqi Freedom (OIF) and Enduring Freedom (OEF). These individuals have sustained the loss of an arm(s), leg(s), hand(s), and/or foot (feet). This number includes 402 soldiers, 97 of whom have multiple amputations; 129 Marines, 27 of whom have multiple amputations; 15 sailors, 3 of whom have multiple amputations; 7 airmen, one of whom has multiple amputations. Of the 553 amputees, 129, or 24%, of these individuals have upper extremity amputations.

Visiting these brave men and women and talking to them about our common experiences reminds me of what my injured comrades and I went through when we returned home almost 40 years ago.

At the dedication ceremony for the Center for the Intrepid, John Mellencamp performed. A week later, I saw him on television and he commented on how it was nice that so many Americans had contributed to the Center. He also noted how these brave injured men and women were in such good spirits and how they felt it was their duty to make the sacrifice for our nation. He wondered out loud, however, whether they would feel the same 15 years from now.

Personally, I have wondered whether my injury was in vain or whether others truly appreciate my sacrifice. What does make a difference is that my government shows its appreciation by providing medical care to me and resources to support me and my family. Those two benefits alone have taken a great burden from me and provided me some peace of mind.

Today, the medical care and services these new injured troops are receiving from the military is excellent. However, I am concerned about their ability to receive quality health care in a timely manner from the Department of Veterans Affairs (VA) in the future, if our

government continues to underfund VA programs or undermines the “critical mass” of patients needed to provide a full continuum of quality health care to disabled veterans currently enrolled in the VA health care system and those who will enroll in the future. Failing to provide new funding at the start of the fiscal year further compounds the problem of providing timely services to our nation’s sick and disabled veterans.

As the 2006 fiscal year drew to a close this past September, we continued to hear from VA officials around the country that they were experiencing health care funding shortfalls. They are either unable, or unwilling, to hire needed medical staff or fill current vacancies. Much of their unwillingness stems from the uncertainty involved in the current budget process. The VA, days into the second month of the second quarter of the new fiscal year, FY 2007, still did not have an appropriations bill. On January 31, four full months into this fiscal year, the House passed another continuing resolution (CR) to fund federal departments and agencies through the end of the fiscal year. The Senate passed the CR on February 14 and the President signed it into law on February 15. Fortunately, and thankfully, the CR included a \$3.6 billion increase in funding for VA.

Although the FY 2007 appropriations in the CR for VA come closer to meeting the needs of VA than prior budget proposals, we are still concerned that additional funding is needed in both the health care and benefits administrations. *The Independent Budget* (IB) recommended \$38.5 billion for VA discretionary programs in FY 2007. This figure does not include collections from veterans or their insurance companies. The CR approved by the House provided \$36.5 billion in discretionary funding for VA programs.

Again, although the funding levels for FY 2007 come close to meeting the funding levels recommended by DAV and the other coauthors of the IB—about \$400 million less for medical services and more than \$200 million less for the Veterans Benefits Administration(VBA)—we are concerned that the combination of the FY 2005 and 2006 shortfalls and the continuous delays in passing appropriations will adversely impact the ability of VA to meet the health care and benefit needs of our nation’s veterans now and in the future.

The fiscal year 2008 budget submission was presented to Congress on February 5, 2007, by the Administration. While the Administration’s FY 2008 budget submission again comes close to providing adequate funding for veterans’ programs, and, while it lessens the “gap” that Congress needs to reach the recommendations of *The Independent Budget*, it still doesn’t guarantee that VA will receive those much-needed funds by the beginning of the new fiscal year on October 1. Once again, the budget submission occurred prior to the enactment of the funding levels for the current fiscal year.

The Administration’s budget proposes \$34.2 billion for the VA health care system and relies on \$2.3 billion in collections. The budget plan also would increase prescription co-payments from \$8 to \$15 and impose a three-tiered annual enrollment fee of \$250, \$500, or \$750 for some veterans, depending on family income. But instead of going directly to the VA, those fees would be paid into the U.S. Treasury, where they conceivably could be siphoned off for other purposes. We urge these Committees and Congress to reject proposed higher pharmacy co-payments and the burdensome enrollment fees and fully fund veterans health care through direct appropriations.

The DAV and other veterans service organizations that co-author the IB have recommended nearly \$44.3 billion in discretionary spending for the VA, with \$36.8 billion of that for veterans health care. The Administration's proposed funding level of \$34.2 for medical care is certainly a nice place to begin, but more must be done to meet the needs of our nation's sick and disabled veterans. The roughly \$2 billion increase does not fully meet the increased costs due to salary increases, inflationary factors, and expected increases in patient utilization rates.

The medical care funding proposal falls short of the IB recommended level by almost \$2.2 billion. For medical services, the IB recommended \$1.8 billion more than requested by the Administration. Further, the Administration is requesting the transfer of approximately \$400 million from medical facilities to provide for its \$27.2 billion medical services request.

The DAV is very concerned that this proposal does not provide any resources for enhancements to any of VA's specialized health care programs, such as mental health care or blind rehabilitation services, among others.

Based on the adverse and long-standing problems from chronic understaffing in VBA's Compensation and Pension Service (C&P), compounded by anticipated increased claims volumes, the IB recommended 10,675 full-time employees for C&P Service. The President's budget requests 9,559 employees. The IB estimate does not include the increased demands that will arise as a consequence of congressional action to allow lawyers into the claims process. While it is not clear at this time what those additional demands might require, it is clear that more resources will be needed to address this ill-advised proposal. Unfortunately, we believe all veterans should expect the processing of their claims to slow down and the claims backlog to grow significantly.

It is important to remember that it takes approximately two years of training for an adjudicator to be fully productive, based on VA standards. We would note that current training criteria is inadequate to properly train adjudicators how to correctly decide cases based on the law and the facts presented. All too many cases must be readjudicated, not once, but multiple times before a correct decision is rendered. Veterans deserve to have their claims rated timely and accurately the first time.

Once again, this year's budget submission fails to provide the necessary resources and, therefore, the timely adjudication of claims continues to remain at risk.

For the Vocational Rehabilitation and Employment business line, the Administration's budget requests 1,260 employees. The IB again recommends 1,375 employees. This represents additional employees as recommended by the VA Vocational Rehabilitation and Employment Task Force to improve the program, along with another 50 additional employees for management and oversight of contract counselors and rehabilitation and employment service providers.

We believe funding for veterans benefits and health care services should be a top priority for Congress and the Administration as a continuing cost of our national defense. Once the guns fall silent, veterans should not have to beg for benefits they have earned and rightfully deserve for their service and sacrifice. A promise of benefits and services alone is not good enough. Approved programs must be sufficiently funded. As a nation, we must be willing to bear the

costs of providing special benefits to such a unique group—those men and women who were willing, on behalf of all Americans, to serve our country and fight our wars to preserve our cherished freedoms and democratic values.

For years, DAV has argued that the current budget process fails to serve veterans, the VA, or American taxpayers. It is impossible for VA to properly plan for an upcoming fiscal year when so much uncertainty surrounds the passage of its appropriations bill and the level of health care funding it will receive. In the last 12 years, VA has not received new funding in a timely manner. In three of those 12 years, including this year, the funding was received during the second quarter of the fiscal year.

DAV has fought to remove the budget uncertainty and ensure not only a proper level of funding, but that increased funding is available to VA on the first day of each fiscal year. Amazingly, eight other veterans service organizations felt strongly enough about this issue to join in a partnership—The Partnership for Veterans Health Care Budget Reform.

The time is now for all of us—Congress, the Administration, and the veterans’ community—to come together to resolve the inherent problems involved in funding VA health care. It is shameful that veterans are forced each year to come to Congress to beg for much needed additional funding for VA programs.

Messrs. Chairmen, on behalf of the DAV, I thank you for agreeing to hold hearings on the issue of budget reform for VA, and joining the veterans’ community in an open and frank discussion of the current VA health care appropriations process and how that process might be improved to better serve our nation’s sick and disabled veterans. I will speak to this important issue at length later.

As you see from my attached biographical information, I am a Marine combat veteran of the Vietnam War. After my medical retirement from the Marine Corps in August 1968 due to severe wounds received during my combat tour of duty at Khe Sanh in the Republic of Vietnam, I received both my undergraduate and doctor of jurisprudence degrees from Indiana University in 1973 and 1982, respectively.

Since joining the DAV in 1975, I have been active in supporting the DAV’s mission of building better lives for our nation’s disabled veterans and their families. Since my retirement from the legal profession, the achievement of the DAV’s mission has been a full-time profession for me.

My fellow disabled veterans have placed their confidence in me, as their National Commander, to carry their message to Congress, the Administration, and to the American public, and I will not let them down.

In December 2006, Congress passed and the President signed into law S. 3421, Public Law 109-461, which would, in part, amend existing law to permit lawyers and *agents* to charge claimants for services rendered in the “preparation, presentation, and prosecution of claims” after a Notice of Disagreement has been filed. It would authorize the Secretary of Veterans Affairs to collect a minimal fee, set limitations for fees charged to claimants, prescribe standards of

conduct, and expand grounds for suspension or expulsion from further practice for attorneys and *agents* providing such services.

The change sought by these measures—allowing lawyers and *agents* to charge a fee to represent a veteran or other claimant before the agency of original jurisdiction—would not be in the best interests of veterans for several reasons, and would be detrimental to the administrative process at the VA. The principal reason for DAV’s opposition is based in the public policy underlying the prohibition against charging veterans for claims assistance. Veterans and their dependents or survivors should not have to resort to hiring and paying lawyers and *agents* to obtain benefits to which they are rightfully entitled. Veterans and other beneficiaries should be able to file claims for benefits and receive fair decisions from the VA without the necessity to hire and pay a large portion of their benefits to attorneys. Congress designed the current administrative claims process to be non-adversarial and veteran-friendly. Unlike litigation in our court system, where the parties must discover and produce their own evidence and affirmatively demonstrate, by a preponderance of the evidence, that they are entitled to the relief sought, Congress obligated VA to assist the claimant in obtaining potential evidence and placed the duty upon VA to consider all relevant law and avenues of entitlement.

Veterans’ benefits are more than a matter of mere relief provided out of generosity by the government. Because veterans have made special sacrifices, have subjected themselves to extraordinary risks, and have borne unusual burdens for the benefit of the nation as a whole, they have earned special rights and special treatment. Veterans, who have served and fought for our country and our cherished freedoms, should never have to fight our government to get the benefits a grateful nation has provided as a reward for their sacrifices and service. It is intended that these benefits be provided with a minimum of difficulty for the veteran claiming them. Veterans are accorded a privileged status and are due more personal assistance from VA than claimants receive when seeking benefits from other federal forces. Again, it is important to remain mindful that veterans obtain their benefits through an informal, non-adversarial, and benevolent claims process, not a litigation process. The paramount distinction between the VA process and litigation reflects a calculated congressional intent and design to permit veterans to receive all the benefits they are rightfully due without any necessity to hire and pay a lawyer.

Disability compensation and other benefits for veterans and their families should go to the intended beneficiaries for the purpose of the necessities of life and to meet other needs, not to lawyers and *agents*. That is the very reason the system was designed to work without lawyers and the wisdom behind the law that has so long prohibited lawyers from charging veterans for filing and prosecuting claims. By passing this measure to allow lawyers and *agents* to charge veterans for claims assistance, Congress has abandoned the commitment to a system that delivers benefits to veterans without necessity to pay lawyers and *agents*. Congress has admitted that it is unable to perform its oversight role to ensure that the VA’s claims processing system works as intended—a veteran-friendly, ex parte, non-adversarial benefits system.

Congress is sending the wrong message to our brave young men and women serving in harm’s way in our war on terror. The message you have sent to these men and women is that it may be necessary to hire and pay a lawyer or *agent* to obtain your rightful benefits from the government they served to protect.

Most individuals are unaware of the fact that the VA was designed to be an informal, non-adversarial, and pro-veteran claims process, not a litigation process. Most of those individuals would, therefore, believe that an attorney would be better qualified to represent them in the litigation process. However, empirical data from the Board of Veterans' Appeals demonstrates that lawyers, who handpick their cases, have a slightly lower average allowance rate than veterans service organizations. Unlike lawyers or *agents*, most VSOs and certainly DAV, handle all requests for appellate representation.

Messrs. Chairmen, DAV believes that it is bad public policy to allow veterans to pay a fee to obtain their earned benefits. Furthermore, it demeans the service of our brave young men and women who defend our cherished freedoms to convince them that it might be necessary to pay a lawyer to represent them to obtain the benefits to which they are rightfully entitled.

The argument that veterans should be afforded a choice to be represented by a lawyer or *agent* in claims for veterans' benefits ignores the intent of Congress that the VA's mission is to provide all entitled veterans claimants with all benefits allowable under the law, and that the VA claims process should remain open, helpful, informal, and pro-veteran.

To allege that this legislation is simply about affording a choice to a veteran erroneously implies that the VA system should operate like the civil litigation and criminal justice systems, where two parties must convince an impartial third party that one of them should prevail. Again, I cannot emphasize enough, that the VA claims process is not, I repeat, *is not*, a litigation process. As an attorney, I know firsthand how lawyers are trained and how they think and react in the legal arena. Believe me when I say this is not what we want for the VA claims process.

The DAV believes this measure will have far reaching detrimental effects that will far outweigh the emotional gratification of having the right to choose representation by a lawyer or *agent*. The Court recognized the probable adverse effects in *Walters v. National Ass'n of Radiation Survivors*, 473 U.S. 305 (1985):

There can be little doubt that invalidation of the fee limitation would seriously frustrate the oft-repeated congressional purpose for enacting it. Attorneys would be freely employable by claimants to veterans' benefits, and the claimant would as a result end up paying part of the award, or its equivalent, to an attorney. But this would not be the only consequence of striking down the fee limitation that would be deleterious to the congressional plan.

A necessary concomitant of Congress' desire that a veteran not need a representative to assist him in making his claim was that the system should be as informal and nonadversarial as possible. . . . The regular introduction of lawyers into the proceedings would be quite unlikely to further this goal. Describing the prospective impact of lawyers in probation revocation proceedings, we said in *Gagnon v. Scarpelli*, 411 U.S. 778, 787-788, 93 S.Ct. 1756, 1762, 36 L.E.d.2d 656 (1973):

"The introduction of counsel into a revocation proceeding will alter significantly the nature of the proceeding. If counsel is provided for the probationer or parolee, the State in turn will

normally provide its own counsel; lawyers, by training and disposition, are advocates and bound by professional duty to present all available evidence and arguments in support of their clients' positions and to contest with vigor all adverse evidence and views. The role of the hearing body itself . . . may become more akin to that of a judge at a trial, and less attuned to the rehabilitative needs of the individual. . . . Certainly, the decisionmaking process will be prolonged, and the financial cost to the State—for appointed counsel, . . . a longer record, and the possibility of judicial review—will not be insubstantial.”

We similarly noted in *Wolff v. McDonnell*, 418 U.S. 539, 570, 94 S.Ct. 2963, 2981, 41 L.Ed.2d 935 (1974), that the use of counsel in prison disciplinary proceedings would “inevitably give the proceedings a more adversary cast. . . .” Knowledgeable and thoughtful observers have made the same point in other language:

“To be sure, counsel can often perform useful functions even in welfare cases or other instances of mass justice; they may bring out facts ignored by or unknown to the authorities, or help to work out satisfactory compromises. But this is only one side of the coin. Under our adversary system the role of counsel is not to make sure the truth is ascertained but to advance his client's cause by any ethical means. Within the limits of professional propriety, causing delay and sowing confusion not only are his right but may be his duty. The appearance of counsel for the citizen is likely to lead the government to provide one—or at least to cause the government's representative to act like one. The result may be to turn what might have been a short conference leading to an amicable result into a protracted controversy.

. . . .

“These problems concerning counsel and confrontation inevitably bring up the question whether we would not do better to abandon the adversary system in certain areas of mass justice. . . . While such an experiment would be a sharp break with our tradition of adversary process, that tradition, which has come under serious general challenge from a thoughtful and distinguished judge, was not formulated for a situation in which many thousands of hearings must be provided each month.” Friendly, “Some Kind of Hearing,” 123 U.Pa.L.Rev. 1267, 1287-1290 (1975).

Thus, even apart from the frustration of Congress' principal goal of wanting the veteran to get the entirety of the award, the destruction of the fee limitation would bid fair to complicate a proceeding which Congress wished to keep as simple as possible. It is scarcely open to doubt that if claimants were permitted to retain compensated attorneys the day might come when it could be said that an attorney

might indeed be necessary to present a claim properly in a system rendered more adversary and more complex by the very presence of lawyer representation. It is only a small step beyond that to the situation in which the claimant who has a factually simple and obviously deserving claim may nonetheless feel impelled to retain an attorney simply because so many other claimants retain attorneys. And this additional complexity will undoubtedly engender greater administrative costs, with the end result being that less Government money reaches its intended beneficiaries. 473 U.S. at 323-26.

For these reasons, DAV believes this legislative change will profoundly change the administrative claims process to the detriment of veterans and other claimants. *We believe there is a potential for wide-ranging unintended consequences that will be beneficial for neither claimants nor the Government.* Beyond the cost to veterans, added administrative costs for VA are likely to be substantial, without commensurate added advantages or benefits for either.

The DAV does not stand alone in its opposition to this bill or support to repeal this ill-advised measure. This legislation was also opposed by the VA, Veterans of Foreign Wars of the United States, and AMVETS.

Messrs. Chairmen and members of the Committees, before you today sit the men and women who rely the most on the VA's claims adjudication system. I ask you whether you can look them in the eye and honestly tell them that allowing lawyers to charge them a fee to receive their earned benefits will improve the claims process? Can you tell them with any certainty that what you have done will not further slow down the claims process or increase the already growing backlog of claims? Can you tell them that their comrades who, for whatever reason, choose to represent themselves, will benefit from this change?

I believe that if you are honest with yourself and with us, you will have to admit that there is no data to support the position that allowing lawyers to charge fees will either benefit veterans or improve the system. In fact, the House Committee never held a hearing on this issue. In the Senate, the DAV, the organization with the largest veteran practice before the VA, the Board of Veterans Appeals and the Courts, was not allowed to testify on the legislation, although we did provide a written statement opposing the legislation.

Messrs. Chairmen, we are currently representing before the Court of Appeals for Veterans' Claims, three veterans who are challenging the fees charged by attorneys for representation at the VA following a Court remand. In one case, the veteran was charged by the attorney more than \$40,000 from his retroactive benefits, although the attorney did not actively assist the veteran after the Court remand.

We were also made aware of a situation in Texas where a returning multiple amputee hired an attorney to represent him in his claim for an adaptive housing grant. The attorney who filled out the simple form for the veteran, attempted to collect his \$10,000 fee, 20 percent of the maximum \$50,000 grant, until he was informed by VA that it was illegal to charge a fee for claims representation.

I am sure that you will be hearing from more veterans who believe they are being overcharged to receive their entitlement.

Before S. 3421 was passed in the Senate, an agreement was entered into that the then Chairman and Ranking Member of the Senate Veterans' Affairs Committee and others would introduce legislation to repeal the attorney fee provision. We look to those Senators to honor their agreement and repeal this ill-advised provision.

We call upon all members of these Committees to support the repeal of the attorney fee provision.

For years, the DAV, solely, and in conjunction with *The Independent Budget*, has made Congress and the Administration aware of the fact that in order to overcome the persistent and longstanding problems of large claims backlogs and consequent protracted delays in the delivery of needed disability benefits to veterans and their dependents, our government must invest adequate resources—staffing levels and training—in a long-term strategy to improve quality, proficiency, and efficiency within the claims processing system.

A core mission of the VA is the provision of benefits to relieve the economic effects of injury, disease, or disability upon veterans and their families. For those benefits to effectively fulfill their intended purpose, VA must promptly deliver them to veterans. The ability of disabled veterans to provide for themselves and their families often depends on these benefits. The need for benefits among disabled veterans and their dependents is usually urgent. While awaiting action by VA, they and their families suffer hardships; protracted delays can lead to deprivation, bankruptcies, and homelessness. Disability benefits are critical, and providing for disabled veterans should always be a top priority of the government.

VA can promptly deliver benefits to entitled veterans only if it can process and adjudicate claims in a timely and accurate fashion. However, VA has been unable to either maintain the necessary capacity to match and meet its claims workload or correct systemic deficiencies that compound the problem of inadequate capacity.

Rather than making headway and overcoming the chronic claims backlog and consequent protracted delays in claims disposition, VA has lost ground to the problem, with the backlog of pending claims growing substantially larger. The claims backlog has swollen, and the appellate workload is growing at an alarming rate, suggesting further degradation of quality or at least continuation of quality problems. This situation will further deteriorate under the provisions of Public Law 109-461.

Insufficient resources are the result of misplaced priorities, in which the agenda is to reduce spending on veterans programs despite a need for greater resources to meet a growing workload in a time of war and a need for added resources to overcome the deficiencies and failures of the past. Instead of requesting the additional resources needed in FY 2007, the President sought and Congress provided fewer resources. Prior to this year's budget submission, recent budgets have sought reductions in full-time employees for the Veterans Benefits Administration in fiscal years 2003 through 2006. Since fiscal year 2003, VBA has lost about 500 employees. Such reductions in staffing are clearly at odds with the realities of VA's workload and its failure to improve quality and make gains against the claims backlog, and this year's proposed increase is insufficient to meet the needs.

In its FY 2008 budget submission, VA admitted that the current staffing levels do not enable VA to reduce the pending claims backlog and provide timely service to veterans.

VA must have a long-term strategy focused principally on attaining quality and not merely achieving production numbers. It must have adequate resources, and it must invest them in that long-term strategy rather than reactively targeting them to short-term, temporary, and superficial gains. Only then can the claims backlog really be overcome. Only then will the system serve disabled veterans in a satisfactory fashion, in which their needs are addressed timely with the effects of disability alleviated by prompt delivery of benefits. Veterans who suffer disability from military service should not also have to needlessly suffer economic deprivation because of the inefficiency and indifference of their government.

Messrs. Chairmen, benefits and services for disabled veterans, in fact all veterans, remain primarily the responsibility of our government. The citizens and government of a country that sends its young men and women to defend its homeland and fight its wars have a strong moral obligation to repay them for bearing such a heavy burden. While all citizens of this great nation enjoy our cherished freedoms and our way of life, less than 10 percent of our population have served, sacrificed, and paid a price for those freedoms and our lifestyle. Our indebtedness to veterans is more important than any other part of our national debt because, without their sacrifices, we would not exist as a nation.

While we can never fully repay those who have stood in harm's way protecting freedom, a grateful nation has established a system to provide benefits and health care services to veterans as a measure of restitution for their personal sacrifices and as a way for all citizens to share the costs of war and national defense.

An American servicemember injured today in Afghanistan or Iraq will need the VA health care system beyond the middle of this century. However, if the VA health care system is not adequately funded, these brave men and women would not likely be able to replicate the special care they receive from VA in the private sector. We must ensure that VA remains a viable veterans health care system now and in the future.

Because of their extraordinary sacrifices and contributions in preserving our cherished freedoms and way of life, veterans have earned the right to VA health care as a continuing cost of national defense and security. Congress authorized VA to provide a full continuum of care to veterans, thereby greatly improving the quality of care VA provides. Today, the quality of VA health care is recognized worldwide.

The change in the VA health care system due to eligibility reform has created a more cost-effective and efficient health care system. Progress made as a result of these changes has made VA a world leader in the health care industry. VA consistently sets the benchmark for patients' satisfaction in inpatient and outpatient services, according to the American Customer Satisfaction Index developed by the University of Michigan Business School. In fact, it has been seven consecutive years that VA has received significantly higher marks than the private health care sector. A comprehensive study by the prestigious Harvard Medical School concluded that federal hospitals, including VA medical facilities, provided the best care available anywhere for some of the most common life-threatening illnesses.

The Institute of Medicine has recognized the VA as one of the best in the nation for its integrated health information system. The top-notch research done at VA facilities benefits all Americans, not just veterans. VA medical, prosthetic, and health services researchers have received Nobel Prizes and other distinguished awards for their work at VA. Major breakthroughs pioneered by the VA are invaluable to the entire health care profession. The VA also leads the nation in geriatric research, education, and training and provides long-term care for thousands of veterans each year.

In addition to these notable accomplishments, VA medical facilities are a strategically located national resource. By statute, the VA serves as a backup to the Department of Defense and the National Disaster Medical Systems in time of national emergency. This so-called fourth mission for the VA is especially important while the nation is at war and remains at risk for terrorist attacks that could injure or sicken thousands. However, this fourth mission has never been properly funded.

To guarantee the viability of the VA health care system for current and future service-connected disabled veterans, it is imperative that our government provide an adequate health care budget to enable VA to serve the needs of disabled and sick veterans nationwide. To meet those needs, it is imperative that *timely* funding for the VA health care system be guaranteed and that all service-connected disabled veterans and other enrolled veterans be able to access the system in a timely manner to receive the quality health care they have earned.

When properly funded, the VA is able to provide cost-effective, quality health care services to millions of sick and disabled veterans each year. Additionally, treating veterans at VA rather than state-sponsored programs helps to relieve the stress on states, which routinely pick up the cost of caring for the poor. The specialized services provided by VA, such as acute and long-term care, actually subsidize Medicare and Medicaid programs at great savings to the Medicare Trust Fund and to taxpayers, since VA health care is less costly than the services provided by either Medicare or Medicaid. It makes fiscal sense to treat veterans in the VA health care system, instead of more costly care elsewhere.

The veterans health care system offers an array of specialized services to meet the complex health care needs of veterans who tend to be older, sicker, and poorer than the population as a whole. Many of these specialized services in areas such as prosthetics, spinal cord injury, blind rehabilitation, post-traumatic stress disorder, serious mental illness, and traumatic brain injury are not readily available in the private sector.

As the debate over national health care continues, this country cannot afford to ignore the hundreds of hospitals, clinics, nursing homes, and other facilities that care for America's veterans. In purely material terms, the nation can ill afford to lose the nearly 200,000 dedicated health care professionals and support staff who provide this high quality care and contribute to the economic stability of communities across the country. We cannot sit silently on the sidelines as the debate moves forward. The virtues and benefits of the VA health care system must be part of the debate. If we don't make our voices heard, we could be in jeopardy of losing the system designed to meet the unique health care needs of sick and disabled veterans.

Even though VA is unquestionably a success story, the Administration and Congress typically provide an annual discretionary appropriation for veterans health care that falls far short

of actual needs. Over the years, funding needed to ensure health care programs and services are readily accessible for veterans has not kept pace with inflation, let alone the increased demand for services.

When resources are inadequate to meet demand, VA hospital directors are forced to ration care, and Veterans Health Administration (VHA) policymakers must make difficult decisions and set priorities for care delivery. The current discretionary funding method used to appropriate resources for VA, coupled with continued inadequate and frequently late budgets, have created a funding crisis in the system and jeopardize quality of care to America's sick and disabled veterans.

During this period of war, emphasis has been placed on ensuring that newly returning war wounded veterans have top priority for treatment at VA facilities. Although no one would question that this new generation of veterans deserves ready access to VA's specialized health care services, we must not forget there are previous generations of veterans who continue to rely on the VA health care system for service-related injuries incurred decades ago. As veterans age, those with catastrophic spinal cord injury, limb loss, blindness, post-traumatic stress disorder, and traumatic brain injury often require more medical attention than in the past for their service-connected conditions. Likewise, other veterans dependent on VA health care services deserve timely access to care as well. Funding must be sufficient to provide timely quality health care to all enrolled veterans.

We recognize that providing full funding for VA health care will not solve all of VA's problems. However, VA, as the largest integrated health care system in the United States, must have a sufficient budget to effectively manage its health care programs and services and to hire the appropriate number of clinicians, nurses, and support staff to meet the demand for high-quality medical care. VA must also have the ability to adequately prepare for the coming year well in advance. With guaranteed funding, VA can strategically plan for the future to optimize its assets, achieve greater efficiency, and realize long-term savings. The current discretionary funding mechanism for VA medical care benefits neither VA nor taxpayers, and it certainly is having a negative impact on veterans.

As an organization dedicated to building better lives for disabled veterans and their families, DAV has an awesome responsibility regarding these important benefit and health care issues that impact our veterans and generations of veterans to come. Now, with our fighting men and women in a protracted battle against terrorism and our veterans from past eras battling for needed care and benefits, our message is more important than it ever has been. Make the commitment now that you will stand up to be counted by supporting a change in the current VA health care budget process. By doing so we ensure the sacrifices of those who have served are recognized and honored.

Again, Messrs. Chairmen, DAV looks forward to fully making our case to revamp the VA health care budgetary process when your Committees hold hearings on the budget process in the near future.

Messrs. Chairmen, major policy positions of the DAV are derived from resolutions adopted by the delegates to our annual National Conventions. Since our first National Convention in 1921, the DAV's annual legislative program has served to guide our advocacy for

disabled veterans in accordance with the will of our members. Our 2006 mandates cover a broad spectrum of VA programs and services and have been made available to your Committees and to the members of your staffs. Since DAV was founded in 1920, promoting meaningful, reasonable, and responsible public policy for disabled veterans has been at the heart of who we are and what we do. Our will and commitment come from the grassroots, nurtured in the fruitful soil of veterans' sacrifices and strengthened by the vitality of our membership.

With the realization that we shall have the opportunity to more fully address those resolutions during hearings before your Committees and personally with your staffs, I shall only briefly comment upon a few of them at this time.

I would like to recommend that this Committee consider improvement to certain VA programs designed to benefit our nation's disabled veterans. The members of the DAV approved long-standing resolutions at our most recent National Convention, held in Chicago, Illinois, August 12-15, 2006.

What I communicate to you here today echoes the hopes and desires and, in some cases, the despair of disabled veterans, who appeal to the conscience of the nation to do what is right and just. Accordingly, in addition to correcting the budget process for VA health care and the problems at VBA prohibiting the timely and accurate production of claims decisions, the members of the DAV call upon the members of this Committee to:

- Support additional increases in grants for automobiles or other conveyances available to certain disabled veterans and provide for automatic annual adjustments based on the increase in the cost of living. When this program was originally created in 1946, the law set the allowance at an amount sufficient to pay the full cost of a lower-priced new automobile. With subsequent cost-of-living increases, Congress sought to provide 85 percent of the average cost of a new automobile, and later 80 percent. Because of a lack of regular adjustments to keep pace with increased costs, the value of the automobile allowance has substantially eroded through the years. Currently, the \$11,000 automobile allowance represents only about a third of the average cost of automobiles in the year 2005.
- Increase the face value of Service Disabled Veterans' Insurance (SDVI). The current \$10,000 maximum for life insurance for veterans was first established in 1917, when most annual salaries were considerably less than \$10,000. The maximum protection available under SDVI should be increased to at least \$50,000 to provide adequately for the needs of our survivors.
- Authorize VA to revise its premium schedule for SDVI to reflect current mortality tables. Premium rates are still based on mortality tables from 1941, thereby costing disabled veterans more for government life insurance than is available on the commercial market.
- Provide an additional increase in the specially adapted housing grant and automatic annual adjustments based on increases in the cost of living.
- Extend eligibility for Veterans Mortgage Life Insurance to service-connected veterans rated permanently and totally disabled.
- Support legislation to remove the prohibition against concurrent receipt of military longevity retirement pay and VA disability compensation for all affected veterans.
- Support equal medical services and benefits for women veterans.
- Extend commissary and exchange privileges to service-connected disabled veterans.

- Extend space-available air travel aboard military aircraft to 100% service-connected disabled veterans.
- Support legislation to allow all veterans to recover amounts withheld as tax on disability severance pay. Currently, a three-year statute of limitations bars many veterans from recovering the non-taxable money withheld by the Internal Revenue Service.
- Restore protections against unwarranted awards of veterans' benefits to third parties in divorce actions by prohibiting courts from directly ordering payment of such benefits to third parties, other than dependent children.
- Support the fullest possible accounting of our POW/MIAs from all wars and conflicts.
- Support adequate funding for the Joint POW/MIA Accounting Command
- Support an expansion of POW presumptions.
- Provide educational benefits for dependents of service-connected veterans rated 80% or more disabled.

In honor of the brave men and women—our heroes who have sacrificed so much and who have contributed greatly to protect and defend our cherished freedoms—who were disabled as a result of their military service, the DAV is providing major support to the Disabled Veterans' LIFE Memorial Foundation in its work to construct a memorial to disabled veterans in Washington, D.C. Congress has enacted legislation that authorizes construction of the memorial on select lands in the shadow of the U.S. Capitol. In the 109th Congress, there were companion bills—H.R. 1951 in the House and S. 633 in the Senate—to provide for the minting of coins by the Treasury to commemorate disabled veterans and to contribute the surcharges on the coins to the fund for construction of the American Veterans Disabled for Life Memorial. Although the Senate passed S. 633, the House failed to take any action on the measure. The same was true during the 108th Congress as well. It is extremely unfortunate that these measures were allowed to die in two separate Congresses.

New legislation, H.R. 634, has been introduced in the House to provide for the minting of these coins and for contributions to be provided to the Foundation. I would encourage all of you to support this measure.

Messrs. Chairmen, I also want to bring to your attention Congressional action to establish yet another "entitlement commission," and to express DAV's strong opposition to this threat to veterans benefits. The so-called "Securing America's Future Economy (SAFE) Commission Act," S. 304 and H.R. 473, introduced by Senator George Voinovich of Ohio and Representative Frank Wolf of Virginia, places a black cloud over the future of veterans benefits. This legislation proposes the establishment of a commission to, among other things, examine federal spending and make legislative recommendations to Congress and the President.

Such commissions are not new to us. Currently in law, the Veterans Disability Benefits Commission has been tasked with looking at our benefit programs. A decade ago, we dealt with the Bipartisan Commission on Entitlement and Tax Reform. Input from a variety of biased experts and think tanks, such as the Concord Coalition and the Heritage Foundation, which have long advocated cutting veterans programs by slashing payments and means testing disability compensation, seem to resonate with these commissions to the detriment of our nation's sick and disabled veterans.

We, the beneficiaries of our nation's generosity to care for those who have borne the battle, call upon you, members of the authorizing committees for veterans programs, to ensure that our programs are protected from those who believe veterans benefits are merely a "handout" or little more than a welfare program.

Messrs. Chairmen, as you can see, our work for disabled veterans and their families continues to involve many issues and many challenges. When it comes to justice for disabled veterans, we cannot be timid in our advocacy. These Committees and the DAV, working together with mutual cooperation, must battle for what is best for our nation's disabled veterans. As stated by President Roosevelt, veterans have every right to expect their government to treat them fairly. We call upon you, the members of this Committee, as our advocates in Congress, to help us educate your colleagues about the priorities of disabled veterans.

Our nation's history of meeting its obligations to veterans has fallen short. Our government simply has not always kept veterans at the top of the list of national priorities. Our great nation can no longer excuse its failure to provide veterans the benefits and services they rightfully deserve by saying it cannot afford to fully honor its promises. This country, the richest nation in the world, has the means to meet those obligations. Now our nation, a nation once again at war, must demonstrate it has the will to meet the needs of the returning veterans and older veterans.

For 87 years, the DAV has been dedicated to one, single purpose: building better lives for disabled veterans and their families.

In fulfilling our mandate of service to America's service-connected disabled veterans and their families, and in keeping faith with the principle on which this organization was founded, which is that this nation's first duty is to care for its wartime disabled veterans, their dependents and survivors, the DAV employs a corps of 260 National Service Officers (NSOs), located throughout the country, about half of whom are Gulf War veterans, and a number are veterans of Operations Iraqi Freedom and Enduring Freedom. Last year alone, these men and women, all wartime service-connected disabled veterans themselves, represented—free of charge—over 188,094 veterans and their families in their claims for VA benefits, obtaining for them more than \$2 billion in new and retroactive benefits. Our NSOs also participated in 168,241 Rating Board appearances.

Messrs. Chairmen, the DAV continues to strive to more effectively meet veterans' needs and ensure they receive the benefits our grateful nation has authorized for them. Several years ago, DAV undertook two additional initiatives to enhance and expand benefits counseling and claims representation services to the veterans' community. The first of the two programs involves outreach to members of the Armed Forces at the location and time of their separation from active duty. The second involves services to veterans in the communities where they live.

For benefits counseling and assistance to separating servicemembers in filing initial claims, the DAV has hired and specially trained 25 Transition Service Officers (TSOs), who provide these services at military separation centers, under the direct supervision of DAV NSO Supervisors. This enhancement in assistance to those seeking veterans' benefits will contribute to the DAV's goal of maintaining its preeminent position as a provider of professional services to veterans. In 2006, our TSOs conducted 1,852 briefing presentations to groups of separating

servicemembers, with 92,412 total participants. TSOs counseled 58,186 persons in individual interviews, reviewed the service medical records of 43,305, and filed benefit applications for 34,766, again, at no charge to the separating servicemembers.

The DAV's Mobile Service Office (MSO) program is a part of the same goal. By putting our NSOs on the road to rural America, inner cities, and disaster areas, the DAV assists veterans where they live, which increases accessibility to the benefits our nation provides for veterans. The DAV has 10 of these specially equipped mobile offices on tour to make stops in the communities across this country. During 2006, our Mobile Service Offices interviewed 13,664 persons and filed 7,532 claims.

These specially equipped MSOs, along with special disaster relief teams, were deployed by DAV to the Gulf Coast regions hardest hit by Hurricanes Katrina and Rita shortly after those devastating disasters. These mobile offices allowed the DAV to provide much-needed assistance directly to displaced disabled veterans and their families.

Thanks to the generosity of a \$1 million pledge from the Harley-Davidson Foundation in August 2006, the DAV will be able to expand the efforts of its MSOs. The mission of this new project is to outreach to millions of veterans of all generations to show the high honor DAV and Harley-Davidson give them as a result of their service and sacrifice to our country, and provide benefits counseling to those veterans.

The 2007 Harley's Heroes Tour will officially kick off March 5-7 as part of Daytona Bike Week. The MSOs will be staffed by DAV professional National Service Officers to offer services to veterans there on site.

In addition to the dedicated services performed by DAV's NSOs and TSOs, equally vital are the activities of the more than 16,070 DAV and Auxiliary members who selflessly volunteer their valuable time to assist America's sick and disabled veterans. Last year alone, these men and women continued to serve this nation by providing over 2.4 million hours of essential services to hospitalized veterans, saving taxpayers nearly \$42.7 million in employee costs.

The DAV also employs 185 Hospital Service Coordinators at VA facilities across the country. The DAV's transportation program provides free transportation to and from VA health care facilities to those veterans who could not otherwise access needed medical care. Last year, DAV's National Transportation Network logged more than 22 million miles and transported more than 618,000 veterans to VA health care facilities. Almost 9,000 volunteer drivers spent 1.8 million hours transporting veterans during 2006. Since our national transportation program began in 1987, more than 10.2 million veterans have been transported about 388 million miles.

In 2006, DAV donated 127 Ford vans to VA, free of charge. This year, we will be donating 164 vans to VA. Since 1987, the DAV has donated 1,795 vans, at a cost of \$36 million. Our commitment to this program is as strong as ever. We have vans in every state and nearly every Congressional district serving our veterans—your constituents. DAV not only advocates on behalf of our nation's veterans, but we also continue to give back to our nation and our fellow veterans.

As you can see, the DAV devotes its resources to the most needed and meaningful services for our disabled veterans and their families. These services aid veterans directly and support and augment VA programs. We are able to do so only with the continuing support of an American public that is grateful for all that our veterans have done.

Messrs. Chairmen, this completes my testimony. Thank you for allowing me the opportunity to appear before you on behalf of the Disabled American Veterans to share our outstanding record of service to veterans and our country and to discuss our agenda and our concerns for the 110th Congress. Thank you also for all that your Committees have done and for all that you will do for veterans in the future.

May God bless America's brave young men and women who have been placed in harm's way in our fight against terrorism.